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Land-release Policies and Human-security Complexities

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This article reviews the need for transparency and community participation in the land-release process. Participation is a fundamental part of post-war reconstruction, and the author argues that combining reconstruction with transparent participation will contribute to the quality, accountability and national ownership of the land-release process.

Mine action, and especially mine clearance, has become increasingly effective and efficient since its emergence as a humanitarian discipline in the late 1980s. The most significant improvements have been due not to substantial developments in technology but to the methodology applied to operations. Mine-action implementers have learned to assess the expected outcomes of clearance, victim-assistance and mine-risk-education activities while reaching goals effectively and efficiently. The technical improvements of metal detectors and mechanical-clearance and ground-preparation equipment, as well as increased knowledge of mine-detection-dog capacity and training, must be recognized. Still, the way we deploy assets effectively and prioritize tasks has been the most significant contribution in ensuring that mine-action operations have a relevant impact on affected communities.

Operations Coordinator, Medic Coordinator, Sector Coordinator and other members of a survey party review future mine-clearance tasks for Norwegian People's Aid's program near the northwest border of Jordan, 22 April 2009.
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General and Technical Survey have been available for decades but have now become essential elements of land release for rectifying faulty identification of suspected hazardous areas.

Land release is a continuation of mine action on the same principles, but in the context of better identification of areas needing clearance and of the implementation of the Ottawa Convention. General and Technical Survey have been available for decades but have now become essential elements of land release for rectifying faulty identification of suspected hazardous areas. National authorities must oversee land-release activities; however, a paucity of strong international guidelines increases the likelihood of unsound practices and miscommunication between stakeholders.

If mine-affected countries are to develop realistic plans for implementing the Ottawa Convention, land release must be central to these plans. There is a need for a land-release concept that allows national mine-action authorities to conduct a well-informed and efficient reduction of SHAs while improving cost efficiency in operations. This article proposes an approach to land release that emphasizes a high level of community participation and transparency to ensure access to viable information about SHAs. It also examines at the land-release process congruent with communities' perception of acceptable risk and Ottawa Convention requirements.

In northwest Jordan, the survey team spends substantial time in the military-controlled border zone distinguishing potentially mined areas from safe ones. Many parts of the original SHA have been used by local farmers for years for agricultural purposes.

Transparency and Participation in Land Release

Responsible land release is an issue of effective information-gathering and risk management. These concepts are dependent on transparency and participation by all relevant stakeholders.[1,2] A transparent process fulfills two requirements for successful land release as defined in the Geneva International Centre for Humanitarian Demining publication *A Guide to Land Release*:

1. The possibility of a high degree of community participation
2. The liability for decisions made in the land-release process[3]

The possibility for communities and authorities not involved in mine action to participate in the process is essential both in terms of ensuring relevant information is gathered and analyses on threats posed by SHAs are well-informed. Transparent processes—those in which subjective decision making is minimized, and actions and conclusions are documented and related to a legislative process—fulfill three main purposes:

1. A quality-control system to prevent mistakes rather than later having to rectify them
2. Accountability and liability for actions undertaken in the land-release process
3. Acceptance of the land-release process among affected communities

First of all, requiring a documented process in which all stakeholders contribute to a system that prevents nonconformities rather than correcting past mistakes ensures all steps to gathering and analyzing information are followed. In other words, the documentation of the process should be designed to ensure that all steps in information gathering and analysis are completed and of adequate quality to prevent land from being released on faulty assumptions. Preventing nonconformities from reaching and affecting the end user is an essential part of a quality-control system (such as *ISO 9000*[4]) and can, in the case of land release, have mortal implications.[1]

Second, transparency fulfills two essential purposes in terms of liability. As an employee of Norwegian People's Aid once said, "In this business, it is not a question of ***if*** an accident will happen; it is a question of ***when.***" Mine action has come a long way since the 1980s in terms of quality and safety. Still, accidents happen, and at some stage, some released land will contain landmines. If land has been mistakenly released because of negligence or a faulty process, it is important that the process is well-documented. This way, information can be corrected or, in the worst case, people will be held accountable for their actions. It is equally important for land-release staff to document their actions to prove their diligence in the event that mine contamination is discovered.

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Third, in its conclusions, *A Guide to Land Release* defines seven broad principles for land release:

1. A formal, well-documented and recorded process of investigation into the mine/explosive remnants of war problem
2. Well-defined and objective criteria for the reclassification of land
3. A high degree of community involvement and acceptance of the decision-making process
4. A formal process regarding the handover of land prior to its release of land
5. An ongoing monitoring mechanism after the handover has taken place
6. A formal national policy addressing liability issues
7. A common set of terminology to be used when describing the process[3]

All of the above principles benefit from transparency both in terms of gaining confidence in the process among end users and providing accountability for its implementation. To promote national ownership, the land-release process must take terrain, land use, cultural communication and the national legislative system into consideration, as well as accuracy in the assessment of SHAs. To a large extent, creating an effective national land-release

process depends on national authorities' capacity to govern the process to meet human-security needs, as well as developmental and economic requirements for reducing SHAs.

Community participation is an undeniably essential part of basic governance.[5] If a mine-action authority is to make land-release decisions that support the communities' perception of acceptable risk, the communities must be involved in the initial decision-making process.

Areas without Obvious Risk vs. Areas Reclaimed or Cancelled

Norwegian People's Aid's Mine Action Team in Bosnia and Herzegovina had heated debates regarding the use of terminology to be used to differentiate areas initially suspected to be mined from those selected based on survey data for an actual clearance task. These discussions took place before the concept of land release had been defined, but served as a precursor to it since, in effect, it was an early effort by the Bosnia and Herzegovina Mine Action Centre and other operators to better define which areas were actually in need of clearance. The debate then focused on the issue of whether unused areas adjacent to or in close proximity to known minefields could be deemed safe for use because there was no indication of mines in those specific locations.

In a country such as Jordan, which has organized minefields, it might be feasible to deem areas safe because of information indicating an absence of landmines. In countries such as BiH, where warfare was conducted over an extended period of time and included random and small clusters of landmines being emplaced, more extensive survey methods must be used.

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While clearing areas that had been used for years as pasture grounds or low-intensity farming, the demining teams often found small clusters or individual mines untouched by animals and humans using the area.

On the other hand, in areas where the non-existence of landmines cannot be verified through intensive land use over an extended period of time, or where community populations inhabiting the area throughout the conflict can verify that landmines were never used, the term *without obvious risk* clearly states the conclusion of assessors. End users can then understand and be educated on the potential of encountering unexploded ordnance and landmines, even if the plausibility of encountering UXO is minimal after the land-release process.

Providing information about potential residual risk is important when determining verification requirements based on how land will be used. One example is road construction in Angola, where SHAs are not

An area originally considered suspect along Jordan's northern border. The need for clearance is significantly reduced by detailed records and the use of datum posts.

cleared unless the existence of mines is confirmed. A common practice is to plow the top layer of the road, check the debris for UXO and mines, after which the new foundation of the road is laid and the road constructed. The methodology provides adequate safety for road construction and future traffic. This level of verification is not adequate if the road might lead to a growth in activities at intersections or along sides of the road. An area initially intended simply for road reconstruction can develop into an area where people undertake construction, perform agricultural work and move on foot.

A Model Solution

A functional land-release process must not only include a rigorous system of accessing and analyzing available data; it must also ensure that end users have an understanding of and confidence in the process as a whole. Of the countries reviewed in the GICHD guide,[3] Croatia presents the most detailed and comprehensive system for land release. In its criteria, "conversations with contact persons" is listed; however, no specific reference to the affected communities included. Cambodia and Yemen refer to information from the communities, while Iraq and Lebanon refer to the land owner.

By using Croatia's methodology and emphasizing the inclusion of affected and nearby communities, the end user of the land and the land owner, a comprehensive system can be created. By involving affected communities in the process, civilians develop confidence and become aware of any residual dangers. If the community knows that hazards might exist after land release, this awareness will also contribute to the sustainability of the process. If the land-release process is conducted without community participation and a released area proves to contain landmines or explosive remnants of war, there is a risk that the process in other areas will be questioned. Affected communities and end users should not only sign off on a document of approval created by the mine-action authorities, but also let the surveying authority or organization act as a facilitator, assisting the communities with the assessment of risks in SHAs by providing accessible information and supportive analysis, ultimately enabling the community to conclude which areas can be released for use without clearance.

Conclusions

An effective land-release process should be based on the end users' perception of acceptable risk, guided by clear national regulations and supported by the national mine-action authority. Where end users can be identified, they should act as key stakeholders throughout the process. In *A Guide to Land Release*, the GICHD identifies the core components of a successful land-release process; however, to effectively assist mine-action authorities in developing national legislation and protocols, a greater emphasis must be placed on the need for engaging end users and affected communities. To allow meaningful participation in the process, there are a number of points that should be further developed as part of the guidance and advice to authorities:

1. The intended end users, which are not necessarily the land owner or local authority, should be included as partners of the surveying authority or organization whenever possible. Doing so allows them to identify their perception of acceptable levels of risk at an early stage and to know what potential threat remains in the area.
2. All information the surveying authority gathers should be reviewed with the end user. This involvement will encourage the identification of additional sources of information, as well as create an understanding of the process.
3. When the intended end use of released land considered to determine acceptable verification levels, an assessment must be conducted regarding additional end users' potential follow-on activities. Land release and subsequent investments in development are catalysts for expanding social and economic activities, and the tolerable risk levels must encompass those, as well as the direct post-land-release activity.
4. When possible, the end user should be a co-creator and signatory to the land-release documentation, rather than having the role of approving a document created by the surveying authority. Legal accountability cannot be transferred to the layman, but by being a partner in the land-release process, the end user engenders transparency and develops an understanding of the process.

Participation will naturally bring additional work and require more time than a simple survey. In conflict and post-conflict situations, displacements and refugee movements will hinder end-user participation. When it is feasible, however, participation and transparency will be productive for two main reasons: first, the quality of the land-release process is dependent on information regarding SHAs, as well as perceived tolerable risk levels, to which end users can be key contributors; second, accountability and acceptance of the land-release process are essential for its sustainability. By involving the end user throughout the process as a partner, both issues are effectively addressed.

See Endnotes, page 62

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